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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,443	08/25/1999	YOUNG-KY KIM	678-343-(P88	5237

7590 03/12/2003

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EXAMINER

CUMMING, WILLIAM D

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/382,443

Applicant(s)

KIM ET AL.

Examiner

WILLIAM D. CUMMING

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1, 2, 11-22) in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "*the list may not be incorporated into the specification but must be submitted in a separate paper.*" Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

3. Figures 1A, 1B, 3A, 3B, and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 1, 2, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sawashashi, et al** in view of **Bruckert**.

Regarding claims 1, 11, 12, 14, and 22, **Sawashashi, et al** discloses a base station device (figure 1, #BS1...3) having a controller (figure 9, #12 & 20) for a reference value for reverse closed loop power control in a control state and a forward dedicated control channel transmitter (#18 & 19) for transmitting a power control bit for controlling transmission power of a reverse link. Also note figures 10 and 11. **Sawashashi, et al** does not disclose changing the reference value and transmitting a power control bit for controlling transmission power of a reverse link according to the changed reference value. **Bruckert** teaches the use of changing the reference value and transmitting a power control bit for controlling transmission power of a reverse link according to the changed reference value (note abstract, etc.) for the purpose of adjusting the mobile station power before the third time slot in a CDMA system a base station receives the remote unit power control data. Hence, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of changing the reference value and transmitting a power control bit for controlling transmission power of a reverse link according to the changed reference value, as taught by **Bruckert**, in the base station device of **Sawashashi, et al** in order to adjust the mobile station power before the third time slot in a CDMA system a base station receives the remote unit power control data.

Regarding repeating, it has been held that duplication of parts or steps, are examples directed to various common practices which the court has held normally require only ordinary skill in the art and hence are considered routine expedients are discussed below. Applicants have demonstrated and disclose the criticality of a specific limitation, it would be appropriate to rely solely on case law as the rationale to support an obviousness rejection. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Regarding claims 2, 12, and 15-21, note column 1, line 9 to column 8, line 45 in **Sawashashi, et al.**

Specification

8. The disclosure is objected to because of the following informalities:

The Brief description of the Drawings state that figures 3A and 3B is an embodiment of the invention, yet the specification stated earlier that these figures show prior art. Appropriate correction is required.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Geile, et al disclose a method for adjusting power in a communication system with multicarrier telephony transport.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is 703-305-4394. The examiner can normally be reached on Monday, Tuesday, Thursday, 11:30am to 8:30pm- Wednesday 11:30am to 7:30pm and Friday 10:00am to 3:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **DAINIEL HUNTER** can be reached on 703-308-6732. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.


WILLIAM D. CUMMING
Primary Examiner
Art Unit 2684

wdc
March 5, 2003



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